

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

NORTEK AIR SOLUTIONS, LLC,  
 Plaintiff,  
 v.  
 DMG CORPORATION, et al.,  
 Defendants.

Case No. [14-cv-02919-BLF](#)

**ORDER REGARDING SEALING  
 MOTIONS PERTAINING TO MOTIONS  
 IN LIMINE**

[Re: ECF 224, 240, 251, 253, 254]

Before the Court are the parties' administrative motions to file under seal portions of their briefing and exhibits in connection with the parties' motions in limine. ECF 224, 240, 251, 253, 254. For the reasons stated below, the motions are GRANTED IN PART AND DENIED IN PART

**I. LEGAL STANDARD**

"Historically, courts have recognized a 'general right to inspect and copy public records and documents, including judicial records and documents.'" *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc 'ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are "more than tangentially related to the merits of a case" may be sealed only upon a showing of "compelling reasons" for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of "good cause." *Id.* at 1097.

In addition, sealing motions filed in this district must be "narrowly tailored to seek sealing only of sealable material." Civil L.R. 79-5(b). A party moving to seal a document in whole or in part must file a declaration establishing that the identified material is "sealable." Civ. L.R. 79-

5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

## II. DISCUSSION

The Court has reviewed the parties’ sealing motions and respective declarations in support thereof. The Court finds the parties have articulated compelling reasons to seal certain portions of most of the submitted documents. The proposed redactions are also narrowly tailored. The Court’s rulings on the sealing request are set forth in the tables below:

### A. ECF 224

Identification of Documents to be Sealed	Description of Documents	Court’s Order
MIL No. 1. Redacted at pgs.: 1:17, 21; 2:26-27, 28; 3:1-4, 5-6, 8, 13, 15-16, 17, 17-18, 22-23; 3:24-4:2; 4:7-8, 10-11, 12-13, 14-15, 21-22; 5:7-8, 10, 11-12, 13.	Nortek confirms Defendants’ request to seal the redactions to Motion in Limine No. 1 as to 1:17, 3:8, 13, 15-18, 22-25, 4:1-2, 7-8, 10-11. Nortek has additionally proposed redactions to 4:7-17.  This language proposed for redaction contains confidential information about customer demand, pricing, and internal market surveys.	GRANTED as to 1:17, 3:8, 13, 15-18, 22-25, 4:1-2, 7-8, 10-11, and 4:7-17 and DENIED as to remainder.
MIL No. 2. Redacted at pgs.: 3:4-5, 7-8, 8-11, 14-16, 17-19; 5:15-16, 17-18, 18-19, 19-20.	Nortek confirms Defendants’ request to seal the redactions to Motion in Limine No. 2 as to 3:7-11. The language proposed for redaction contains confidential excerpts from the deposition of Dr. Prowse explaining confidential information about customer demand.	GRANTED as to 3:7-11 and DENIED as to remainder.
MIL No. 3. Redacted at pgs.: 2:21-22; 4:2, 3, 13-14, 14-15, 22-23, and 23-24.	Nortek does not object to Motion in Limine No. 3 being filed publically.	DENIED
MIL No. 4. Redacted at pgs.: 2:23-25, 26-27, 28; 3:1-4, 10-11, 24-27; 3:28-4:2; 4:18-19, 21-22; 5:4, 8, 9-10.	Nortek does not object to Motion in Limine No. 4 being filed publically.	DENIED
Exhibits 1, 2, 3, 4, and 5 to MIL No. 1	Confidential internal Nortek analysis that divulges internal, competitive-analysis and technical information regarding features included in various projects	GRANTED
Exhibits 6, 7, 8, 9, and 10 to MIL No. 1	Contains confidential business information detailing Nortek’s economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and its customers’ facilities including sensitive details regarding customer pricing	GRANTED

1	Exhibit 13 to MIL No. 1	Contains confidential business information detailing both Nortek's economic analysis, pricing, and products.	GRANTED
2	Exhibits 14, 15, 16, and 17 to MIL No. 1	Contains confidential business information detailing Nortek's economic analysis, pricing, and competition including sensitive details regarding customer pricing.	GRANTED
3	Exhibit 18 to MIL No. 1	Nortek does not object to Exhibit 18 being filed publically.	GRANTED as to 18 and 13-17, 18 and DENIED as to remainder.
4		Defendants' Confidential Information (or that of its customers) redacted at: 18 (technical information); 13- 17, 18 (customer information).	
5	Exhibit 1 to MIL No. 2	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing	GRANTED
6	Exhibit 2 to MIL No. 2	Nortek does not object to Exhibit 2 being filed publically.	GRANTED as to 22 and DENIED as to remainder.
7		Defendants' Confidential Information (or that of its customers) redacted at: 22 (financial information).	
8	Exhibit 3 to MIL No. 2	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing	GRANTED
9	Exhibit 5 to MIL No. 2	Nortek does not object to Exhibit 5 being filed publically.	GRANTED as to 13-17, and 18 and DENIED as to remainder.
10		Defendants' Confidential Information (or that of its customers) redacted at: 18, (technical information); 13-17, 18 (customer information).	
11	Exhibit 1 to MIL No. 3	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing	GRANTED
12	Exhibit 2 to MIL No. 3	Nortek does not object to Exhibit 2 being filed publically.	DENIED
13	Exhibit 3 to MIL No. 3	Contains confidential business information detailing design, components, internal business analysis, and technical features of specific Nortek products.	GRANTED
14	Exhibit 1 to Motion in Limine No. 4	Nortek does not object to Exhibit 1 being filed publically.	GRANTED as to 13 and 14, and Exhibit 1 at 2-8,

	Defendants' Confidential Information (or that of its customers) redacted at: Pgs. 13 and 14, and Exhibit 1, Pgs. 2-8 (technical information); Exhibit 1, pg. 2 (customer information)	and DENIED as to remainder.
Exhibit 2 to MIL No. 4	Nortek does not object to Exhibit 2 being filed publically.	DENIED
Exhibit 3 to MIL No. 4	Nortek does not object to Exhibit 3 being filed publically.	DENIED
Exhibit 4 to MIL No. 4	Contains confidential business information detailing Nortek's economic analysis, pricing, and technical documents detailing design, components, and technical features of specific Nortek products and their customers' facilities including sensitive details regarding customer pricing	GRANTED
Exhibit 5 to MIL No. 4	Nortek does not object to Exhibit 5 being filed publically.	DENIED

**B. ECF 240**

<b>Identification of Documents to be Sealed</b>	<b>Description of Documents</b>	<b>Court's Order</b>
Opp. to Nortek's MIL No. 3	Nortek does not object to this document being filed publically.  Defendants' Confidential Customer Information Redacted at pgs.: 3:3.	GRANTED as to 3:3 and DENIED as to remainder.
Opp. to Nortek's MIL No. 4	Contains confidential information about business acquisitions, damages, pricing, and internal business strategy. Nortek has additionally proposed redactions to 1:7-16, 17-22, 24-27, 2:1-4, 12-20, 26-28, 3:1, 10-11, 12- 14, 19-22, 23-25, and 4:23-24 as containing confidential information.	GRANTED
Opp. to Nortek's MIL No. 5	Contains confidential information about damages and litigation practices. Nortek has additionally proposed redactions to 2:8 and 5:3 as containing confidential information.	GRANTED
Exhibit 1 to Opp. to Nortek's MIL No. 1	Contains confidential business information detailing technical features of specific Nortek products and brands, and their customers' facilities.  Defendants' redactions are narrowly tailored and limited to portions containing confidential Energy Labs technical information or private third party information.	GRANTED
Exhibit 3 to Opp. to Nortek's MIL No. 1	Confidential business information detailing revenue	GRANTED
Exhibit 8 to Opp. to Nortek's MIL No. 1	Contains confidential excerpts from technical documents detailing the design, components, and technical features of specific Energy Labs air-handling unit; information regarding its customers' facilities, and confidential competitive analyses.	GRANTED

1	Exhibit 1 to Opp. to Nortek's MIL No. 2	Contains confidential business information detailing technical features of specific Nortek products and brands, and their customers' facilities.	GRANTED
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3	Exhibit 2 to Opp. to Nortek's MIL No. 2	Nortek does not object to this document being filed publically.	DENIED
4	Exhibit 3 to Opp. to Nortek's MIL No. 2	Confidential technical information concerning Nortek products and systems.	GRANTED
5	Exhibit 4 to Opp. to Nortek's MIL No. 2	Confidential technical information concerning Nortek products and systems.	GRANTED
6	Exhibit 1 to Opp. to Nortek's MIL No. 3	Confidential technical information concerning Nortek products.	GRANTED
7	Exhibit 2 to Opp. to Nortek's MIL No. 3	Nortek does not object to this document being filed publically.	DENIED
8	Exhibit 1 to Opp. to Nortek's MIL No. 4	Confidential internal Nortek business and pricing analysis, along with damages calculations, that would harm Nortek's business if publically filed	GRANTED
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10	Exhibit 2 to Opp. to Nortek's MIL No. 4	Confidential internal strategy memorandum for Nortek and its internal brands.	GRANTED
11	Exhibit 4 to Opp. to Nortek's MIL No. 4	Confidential financial information belonging to Nortek	GRANTED
12	Exhibit 4: Exhibit 13 to Opp. to Nortek's MIL No. 4	Confidential internal Nortek analysis that divulges internal, competitive-analysis and business agreement information	GRANTED
13	Exhibit 1 to Opp. to Nortek's MIL No. 5	Nortek does not object to this document being filed publically.	DENIED
14	Exhibit 6 to Opp. to Nortek's MIL No. 5	Confidential internal Nortek business and pricing analysis	GRANTED
15	Exhibit 7 to Opp. to Nortek's MIL No. 5	Confidential internal Nortek business and pricing analysis that would harm Nortek's business if publically filed	GRANTED
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17	Exhibit 8 to Opp. to Nortek's MIL No. 5	Confidential consulting agreement	GRANTED

**C. ECF 251, 253, 254**

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19	<b>Identification of Documents to be Sealed</b>	<b>Description of Documents</b>	<b>Court's Order</b>
20	Nortek's Opp. to MIL No. 1	Contains Nortek's confidential pricing information.	GRANTED as to Nortek's confidential information and DENIED as to 4:13-18.
21		Defendants' confidential information is not implicated at 4:13-18.	
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23	Nortek's Opp. to MIL No. 2	Contains Nortek's confidential business agreements.	GRANTED
24		Defendants' confidential information redacted at: 2:1-2 (technical specifications); 2:8-14, 2:22-23, 2:25-27 (damages); 5:6-8, 5:9, 5:10, 5:13, 5:18 (business structure).	
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26	Nortek's Opp. to MIL No. 3	Contains Nortek's confidential business information and communications.	GRANTED
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		Defendants' confidential information redacted at: 1:23-2:2, 2:7-9, 2:12-14, 2:20-23, 4:18-23 (business information).	
Nortek's Opp. to MIL No. 4	Contains confidential technical information about Temtrol System.		GRANTED
	Defendants' confidential information is not implicated at: 1:26-2:1, 2:2-5, 2:6-8 (technical information); 2:9-10 (design information), 2:13, 2:17 (technical information); 4:12-15, 4:18-20, 4:23-24, 5:15 (design information).		
Exhibit 1 to Nortek's Opp. to MIL No. 1	Confidential information about Nortek's business practices and pricing		GRANTED
Exhibit 2 to Nortek's Opp. to MIL No. 1	Confidential information about Nortek's competition and pricing information		GRANTED
Exhibit 3 to Nortek's Opp. to MIL No. 1	Concerning confidential information about Nortek's business practices, competitive pricing		GRANTED
Exhibit 4 to Nortek's Opp. to MIL No. 1	Concerning confidential information about Temtrol System, Nortek's business practices, competitive pricing and market strategy, brand management, and product analysis		GRANTED
Exhibit 5 to Nortek's Opp. to MIL No. 1	Confidential information about business agreements, Nortek products information and technology analysis.		GRANTED
Exhibit 7 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the product design, components, and technical features of Energy Labs products and specific customers' air-handling units and facilities, and private third party customer information		GRANTED
Exhibit 8 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the product design, components, and technical features of Energy Labs products and specific customers' air-handling units and facilities, and private third party customer information		GRANTED
Exhibit 9 to Nortek's Opp. to MIL No. 1	Proprietary information about Nortek's competitive analysis, product analysis and business strategy		GRANTED
Exhibit 11 to Nortek's Opp. to MIL No. 1	Contains confidential business information about Temtrol, Nortek's pricing structure, and customer Information		GRANTED
Exhibit 12 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the product design, components, and technical features of Energy Labs products and specific customers' air-handling units and facilities, and private third party customer information		GRANTED
Exhibit 14 to Nortek's Opp. to MIL No. 1	Contains confidential discussion regarding the design and technical features of Energy Labs products and specific customers' air-handling units		GRANTED



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	and facilities, and private third party customer information	
Exhibit 3 to Nortek's Opp. to MIL No. 2	Contains confidential business agreements	GRANTED
Exhibit 4 to Nortek's Opp. to MIL No. 2	Contains confidential discussion regarding the business operations and sales compositions for Defendants	GRANTED
Exhibit 5 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants financial and sales information, and private third party information regarding Defendants' customers	GRANTED
Exhibit 6 to Nortek's Opp. to MIL No. 2	Contains confidential information about Nortek's business agreements	GRANTED
Exhibit 7 to Nortek's Opp. to MIL No. 2	Contains confidential information about Nortek's business agreements	GRANTED
Exhibit 8 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants financial and sales information, and private third party information regarding Defendants' customers	GRANTED
Exhibit 11 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants financial and sales information, employee compensation, and technical details regarding specific customer's AHU installations	GRANTED
Exhibit 12 to Nortek's Opp. to MIL No. 2	Contains confidential information regarding Defendants business methods and processes, and technical details regarding Defendants' product offerings	GRANTED
Exhibit 1 to Nortek's Opp. to MIL No. 3	Proprietary information about Nortek's products, including their development	GRANTED
Exhibit 5 to Nortek's Opp. to MIL No. 3	Contains confidential discussion regarding development of Defendants' products	GRANTED
Exhibit 6 to Nortek's Opp. to MIL No. 3	Contains confidential information about Nortek's intellectual property in communication with Energy Labs	GRANTED
Exhibit 7 to Nortek's Opp. to MIL No. 3	Contains confidential discussion regarding development of Defendants' products	GRANTED
Exhibit 9 to Nortek's Opp. to MIL No. 3	Confidential internal analysis reflecting detailed technical information regarding a specific customer's air handling unit and installation	GRANTED
Exhibit 10 to Nortek's Opp. to MIL No. 3	Confidential internal technology and product analysis reflecting Energy Labs' investment of financial and technical resources	GRANTED
Exhibit 11 to Nortek's Opp. to MIL No. 3	Confidential information about Energy Labs' business plans, financial information, and competitive analysis	GRANTED
Exhibit 14 to Nortek's Opp. to MIL No. 3	Contains confidential information about Nortek's technical specifications	GRANTED
Exhibit 15 to Nortek's Opp. to MIL No. 3	Contains confidential information about Nortek's technical specifications	GRANTED
Exhibit 19 to Nortek's	Confidential internal technology and product	GRANTED

Opp. to MIL No. 3	analysis reflecting Energy Labs' investment of financial and technical resources	
Exhibit 20 to Nortek's Opp. to MIL No. 3	Confidential discussion regarding Defendants' products, confidential discussion regarding Defendants' product design, and information regarding Defendants' customers	GRANTED
Exhibit 1 to Nortek's Opp. to MIL No. 4	Confidential discussion regarding the design, components, and technical features of specific Energy Labs air-handling unit and its customers' facilities, and private third party customer information, including the components used in and structure of customers	GRANTED
Exhibit 2 to Nortek's Opp. to MIL No. 4	Proprietary information about Nortek's products and Temtrol System	GRANTED

### III. ORDER

For the foregoing reasons, the sealing motions at ECF 224, 240, 251, 253, 254 are GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to a protective order has not provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later than 10 days from the filing of this order.

### IT IS SO ORDERED.

Dated: August 18, 2016

  
 BETH LABSON FREEMAN  
 United States District Judge